



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB4166

Introduced 2/27/2009, by Rep. Barbara Flynn Currie

#### SYNOPSIS AS INTRODUCED:

- 5 ILCS 430/25-5
- 5 ILCS 430/25-15
- 5 ILCS 430/25-50
- 5 ILCS 430/25-90
- 5 ILCS 430/25-95

Amends the State Officials and Employees Ethics Act. Expands the jurisdiction of the Legislative Ethics Commission to include matters arising under the Illinois Governmental Ethics Act and violations of other related laws and rules. Requires the Legislative Inspector General's summary investigation reports to be delivered to the Legislative Ethics Commission. With respect to the confidentiality of the Legislative Inspector General's reports, (i) removes the condition of necessity for the disclosure of reports to law enforcement authorities, ultimate jurisdictional authorities, and the Legislative Ethics Commission and (ii) authorizes the Legislative Ethics Commission to disclose or publish summary investigation reports, based on criteria established by the Commission by rule. Makes other changes. Effective immediately.

LRB096 11644 JAM 22209 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The State Officials and Employees Ethics Act is  
5 amended by changing Sections 25-5, 25-15, 25-50, 25-90, and  
6 25-95 as follows:

7 (5 ILCS 430/25-5)

8 Sec. 25-5. Legislative Ethics Commission.

9 (a) The Legislative Ethics Commission is created.

10 (b) The Legislative Ethics Commission shall consist of 8  
11 commissioners appointed 2 each by the President and Minority  
12 Leader of the Senate and the Speaker and Minority Leader of the  
13 House of Representatives.

14 The terms of the initial commissioners shall commence upon  
15 qualification. Each appointing authority shall designate one  
16 appointee who shall serve for a 2-year term running through  
17 June 30, 2005. Each appointing authority shall designate one  
18 appointee who shall serve for a 4-year term running through  
19 June 30, 2007. The initial appointments shall be made within 60  
20 days after the effective date of this Act.

21 After the initial terms, commissioners shall serve for  
22 4-year terms commencing on July 1 of the year of appointment  
23 and running through June 30 of the fourth following year.

1 Commissioners may be reappointed to one or more subsequent  
2 terms.

3 Vacancies occurring other than at the end of a term shall  
4 be filled by the appointing authority only for the balance of  
5 the term of the commissioner whose office is vacant.

6 Terms shall run regardless of whether the position is  
7 filled.

8 (c) The appointing authorities shall appoint commissioners  
9 who have experience holding governmental office or employment  
10 and may appoint commissioners who are members of the General  
11 Assembly as well as commissioners from the general public. A  
12 commissioner who is a member of the General Assembly must  
13 recuse himself or herself from participating in any matter  
14 relating to any investigation or proceeding in which he or she  
15 is the subject. A person is not eligible to serve as a  
16 commissioner if that person (i) has been convicted of a felony  
17 or a crime of dishonesty or moral turpitude, (ii) is, or was  
18 within the preceding 12 months, engaged in activities that  
19 require registration under the Lobbyist Registration Act,  
20 (iii) is a relative of the appointing authority, or (iv) is a  
21 State officer or employee other than a member of the General  
22 Assembly.

23 (d) The Legislative Ethics Commission shall have  
24 jurisdiction over members of the General Assembly and all State  
25 employees whose ultimate jurisdictional authority is (i) a  
26 legislative leader, (ii) the Senate Operations Commission, or

1 (iii) the Joint Committee on Legislative Support Services. The  
2 jurisdiction of the Commission is limited to matters arising  
3 under this Act or the Illinois Governmental Ethics Act and  
4 violations of other related laws and rules.

5 (e) The Legislative Ethics Commission must meet, either in  
6 person or by other technological means, monthly or as often as  
7 necessary. At the first meeting of the Legislative Ethics  
8 Commission, the commissioners shall choose from their number a  
9 chairperson and other officers that they deem appropriate. The  
10 terms of officers shall be for 2 years commencing July 1 and  
11 running through June 30 of the second following year. Meetings  
12 shall be held at the call of the chairperson or any 3  
13 commissioners. Official action by the Commission shall require  
14 the affirmative vote of 5 commissioners, and a quorum shall  
15 consist of 5 commissioners. Commissioners shall receive no  
16 compensation but may be reimbursed for their reasonable  
17 expenses actually incurred in the performance of their duties.

18 (f) No commissioner, other than a commissioner who is a  
19 member of the General Assembly, or employee of the Legislative  
20 Ethics Commission may during his or her term of appointment or  
21 employment:

22 (1) become a candidate for any elective office;

23 (2) hold any other elected or appointed public office  
24 except for appointments on governmental advisory boards or  
25 study commissions or as otherwise expressly authorized by  
26 law;

1           (3) be actively involved in the affairs of any  
2 political party or political organization; or

3           (4) actively participate in any campaign for any  
4 elective office.

5           (g) An appointing authority may remove a commissioner only  
6 for cause.

7           (h) The Legislative Ethics Commission shall appoint an  
8 Executive Director subject to the approval of at least 3 of the  
9 4 legislative leaders. The compensation of the Executive  
10 Director shall be as determined by the Commission or by the  
11 Compensation Review Board, whichever amount is higher. The  
12 Executive Director of the Legislative Ethics Commission may  
13 employ, subject to the approval of at least 3 of the 4  
14 legislative leaders, and determine the compensation of staff,  
15 as appropriations permit.

16 (Source: P.A. 93-617, eff. 12-9-03; 93-685, eff. 7-8-04.)

17           (5 ILCS 430/25-15)

18           Sec. 25-15. Duties of the Legislative Ethics Commission. In  
19 addition to duties otherwise assigned by law, the Legislative  
20 Ethics Commission shall have the following duties:

21           (1) To promulgate rules governing the performance of  
22 its duties and the exercise of its powers and governing the  
23 investigations of the Legislative Inspector General.

24           (2) To conduct administrative hearings and rule on  
25 matters brought before the Commission only upon the receipt

1 of pleadings filed by the Legislative Inspector General and  
2 not upon its own prerogative, but may appoint special  
3 Legislative Inspectors General as provided in Section  
4 25-21. Any other allegations of misconduct received by the  
5 Commission from a person other than the Legislative  
6 Inspector General shall be referred to the Office of the  
7 Legislative Inspector General.

8 (3) To prepare and publish manuals and guides and,  
9 working with the Office of the Attorney General, oversee  
10 training of employees under its jurisdiction that explains  
11 their duties.

12 (4) To prepare public information materials to  
13 facilitate compliance, implementation, and enforcement of  
14 this Act.

15 (5) To submit reports as required by this Act.

16 (6) To the extent authorized by this Act, to make  
17 rulings, issue recommendations, and impose administrative  
18 fines, if appropriate, in connection with the  
19 implementation and interpretation of this Act. The powers  
20 and duties of the Commission are limited to matters clearly  
21 within the purview of this Act.

22 (7) To issue subpoenas with respect to matters pending  
23 before the Commission, subject to the provisions of this  
24 Article and in the discretion of the Commission, to compel  
25 the attendance of witnesses for purposes of testimony and  
26 the production of documents and other items for inspection

1 and copying.

2 (8) To appoint special Legislative Inspectors General  
3 as provided in Section 25-21.

4 (9) To determine whether and under what circumstances  
5 to disclose or publish reports pursuant to subsection (e)  
6 of Section 25-95.

7 (Source: P.A. 93-617, eff. 12-9-03.)

8 (5 ILCS 430/25-50)

9 Sec. 25-50. Investigation reports; complaint procedure.

10 (a) If the Legislative Inspector General, upon the  
11 conclusion of an investigation, determines that reasonable  
12 cause exists to believe that a violation has occurred, then the  
13 Legislative Inspector General shall issue a summary report of  
14 the investigation. The report shall be delivered to the  
15 appropriate ultimate jurisdictional authority, ~~and~~ to the head  
16 of each State agency affected by or involved in the  
17 investigation, if appropriate, and to the Legislative Ethics  
18 Commission.

19 (b) The summary report of the investigation shall include  
20 the following:

21 (1) A description of any allegations or other  
22 information received by the Legislative Inspector General  
23 pertinent to the investigation.

24 (2) A description of any alleged misconduct discovered  
25 in the course of the investigation.

1           (3) Recommendations for any corrective or disciplinary  
2           action to be taken in response to any alleged misconduct  
3           described in the report, including but not limited to  
4           discharge.

5           (4) Other information the Legislative Inspector  
6           General deems relevant to the investigation or resulting  
7           recommendations.

8           (c) Not less than 30 days after delivery of the summary  
9           report of an investigation under subsection (a), if the  
10          Legislative Inspector General desires to file a petition for  
11          leave to file a complaint, the Legislative Inspector General  
12          shall notify the Commission and the Attorney General. If the  
13          Attorney General determines that reasonable cause exists to  
14          believe that a violation has occurred, then the Legislative  
15          Inspector General, represented by the Attorney General, may  
16          file with the Legislative Ethics Commission a petition for  
17          leave to file a complaint. The petition shall set forth the  
18          alleged violation and the grounds that exist to support the  
19          petition. The petition for leave to file a complaint must be  
20          filed with the Commission within 18 months after the most  
21          recent act of the alleged violation or of a series of alleged  
22          violations except where there is reasonable cause to believe  
23          that fraudulent concealment has occurred. To constitute  
24          fraudulent concealment sufficient to toll this limitations  
25          period, there must be an affirmative act or representation  
26          calculated to prevent discovery of the fact that a violation

1 has occurred. If a petition for leave to file a complaint is  
2 not filed with the Commission within 6 months after notice by  
3 the Inspector General to the Commission and the Attorney  
4 General, then the Commission may set a meeting of the  
5 Commission at which the Attorney General shall appear and  
6 provide a status report to the Commission.

7 (d) A copy of the petition must be served on all  
8 respondents named in the complaint and on each respondent's  
9 ultimate jurisdictional authority in the same manner as process  
10 is served under the Code of Civil Procedure.

11 (e) A respondent may file objections to the petition for  
12 leave to file a complaint within 30 days after notice of the  
13 petition has been served on the respondent.

14 (f) The Commission shall meet, either in person or by  
15 telephone, in a closed session to review the sufficiency of the  
16 complaint. If the Commission finds that complaint is  
17 sufficient, the Commission shall grant the petition for leave  
18 to file the complaint. The Commission shall issue notice to the  
19 Legislative Inspector General and all respondents of the  
20 Commission's ruling on the sufficiency of the complaint. If the  
21 complaint is deemed to sufficiently allege a violation of this  
22 Act, then the Commission shall notify the parties and shall  
23 include a hearing date scheduled within 4 weeks after the date  
24 of the notice, unless all of the parties consent to a later  
25 date. If the complaint is deemed not to sufficiently allege a  
26 violation, then the Commission shall send by certified mail,

1 return receipt requested, a notice to the parties of the  
2 decision to dismiss the complaint.

3 (g) On the scheduled date the Commission shall conduct a  
4 closed meeting, either in person or, if the parties consent, by  
5 telephone, on the complaint and allow all parties the  
6 opportunity to present testimony and evidence. All such  
7 proceedings shall be transcribed.

8 (h) Within an appropriate time limit set by rules of the  
9 Legislative Ethics Commission, the Commission shall (i)  
10 dismiss the complaint or (ii) issue a recommendation of  
11 discipline to the respondent and the respondent's ultimate  
12 jurisdictional authority or impose an administrative fine upon  
13 the respondent, or both.

14 (i) The proceedings on any complaint filed with the  
15 Commission shall be conducted pursuant to rules promulgated by  
16 the Commission.

17 (j) The Commission may designate hearing officers to  
18 conduct proceedings as determined by rule of the Commission.

19 (k) In all proceedings before the Commission, the standard  
20 of proof is by a preponderance of the evidence.

21 (l) When the Inspector General concludes that there is  
22 insufficient evidence that a violation has occurred, the  
23 Inspector General shall close the investigation. At the request  
24 of the subject of the investigation, the Inspector General  
25 shall provide a written statement to the subject of the  
26 investigation and to the Commission of the Inspector General's

1 decision to close the investigation. Closure by the Inspector  
2 General does not bar the Inspector General from resuming the  
3 investigation if circumstances warrant.

4 (Source: P.A. 93-617, eff. 12-9-03.)

5 (5 ILCS 430/25-90)

6 Sec. 25-90. Confidentiality.

7 (a) The identity of any individual providing information or  
8 reporting any possible or alleged misconduct to the Legislative  
9 Inspector General or the Legislative Ethics Commission shall be  
10 kept confidential and may not be disclosed without the consent  
11 of that individual, unless the individual consents to  
12 disclosure of his or her name or disclosure of the individual's  
13 identity is otherwise required by law. The confidentiality  
14 granted by this subsection does not preclude the disclosure of  
15 the identity of a person in any capacity other than as the  
16 source of an allegation.

17 (b) Subject to the provisions of Section 25-50(c),  
18 commissioners, employees, and agents of the Legislative Ethics  
19 Commission, the Legislative Inspector General, and employees  
20 and agents of the Office of the Legislative Inspector General  
21 shall keep confidential and shall not disclose information  
22 exempted from disclosure under the Freedom of Information Act  
23 or by this Act, except as necessary to inform a complainant of  
24 the status of an investigation.

25 (Source: P.A. 93-617, eff. 12-9-03.)

1 (5 ILCS 430/25-95)

2 Sec. 25-95. Exemptions.

3 (a) Documents generated by an ethics officer under this  
4 Act, except Section 5-50, are exempt from the provisions of the  
5 Freedom of Information Act.

6 (a-5) Requests from ethics officers, members, and State  
7 employees to the Office of the Legislative Inspector General, a  
8 Special Legislative Inspector General, the Legislative Ethics  
9 Commission, an ethics officer, or a person designated by a  
10 legislative leader for guidance on matters involving the  
11 interpretation or application of this Act or rules promulgated  
12 under this Act are exempt from the provisions of the Freedom of  
13 Information Act. Guidance provided to an ethics officer,  
14 member, or State employee at the request of an ethics officer,  
15 member, or State employee by the Office of the Legislative  
16 Inspector General, a Special Legislative Inspector General,  
17 the Legislative Ethics Commission, an ethics officer, or a  
18 person designated by a legislative leader on matters involving  
19 the interpretation or application of this Act or rules  
20 promulgated under this Act is exempt from the provisions of the  
21 Freedom of Information Act.

22 (b) Any allegations and related documents submitted to the  
23 Legislative Inspector General and any pleadings and related  
24 documents brought before the Legislative Ethics Commission are  
25 exempt from the provisions of the Freedom of Information Act so

1 long as the Legislative Ethics Commission does not make a  
2 finding of a violation of this Act. If the Legislative Ethics  
3 Commission finds that a violation has occurred, the entire  
4 record of proceedings before the Commission, the decision and  
5 recommendation, and the mandatory report from the agency head  
6 or ultimate jurisdictional authority to the Legislative Ethics  
7 Commission are not exempt from the provisions of the Freedom of  
8 Information Act but information contained therein that is  
9 exempt from the Freedom of Information Act must be redacted  
10 before disclosure as provided in Section 8 of the Freedom of  
11 Information Act.

12 (c) Meetings of the Commission under Sections 25-5 and  
13 25-15 of this Act are exempt from the provisions of the Open  
14 Meetings Act.

15 (d) Unless otherwise provided in this Act, all  
16 investigatory files and reports of the Office of the  
17 Legislative Inspector General, other than quarterly reports,  
18 are confidential, are exempt from disclosure under the Freedom  
19 of Information Act, and shall not be divulged to any person or  
20 agency, except ~~as necessary~~ (i) to the appropriate law  
21 enforcement authority if the matter is referred pursuant to  
22 this Act, (ii) to the ultimate jurisdictional authority, or  
23 (iii) to the Legislative Ethics Commission.

24 (e) The Legislative Ethics Commission may disclose or  
25 publish a summary report issued by the Legislative Inspector  
26 General pursuant to Section 25-50. The Commission's

1 determination whether to disclose or publish shall be based on  
2 criteria, established by the Commission by rule, that balance  
3 the privacy interest of individual subjects of a report and the  
4 informational needs of the public.

5 (Source: P.A. 93-617, eff. 12-9-03; 93-685, eff. 7-8-04.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.